

CONFORMED COPY

TF022691

Japanese Grant Agreement

(Agricultural Reform Implementation Support Project)

between

KYRGYZ REPUBLIC

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

on its own behalf and as Administrator
of Grant Funds provided by JAPAN

Dated April 8, 1994

TF022691

JAPANESE GRANT AGREEMENT

AGREEMENT, dated April 8, 1994, between KYRGYZ REPUBLIC (the Recipient) and INTERNATIONAL DEVELOPMENT ASSOCIATION acting on its own behalf (the Association) and as Administrator (the Administrator) of grant funds provided by JAPAN (Japan).

WHEREAS (A) pursuant to a letter agreement dated July 30, 1990 between Japan and International Bank for Reconstruction and Development (the Bank) and the Association, Japan has requested the Bank and the Association, and the Bank and the Association have agreed, to administer grant funds to be made available by Japan for the financing of certain programs and projects supported by the Bank and the Association, as the case may be, in accordance with the provisions of such letter agreement;

WHEREAS (B) Japan has agreed to make available to the Recipient a grant out of said grant funds (the Grant) to finance the cost of carrying out the technical assistance described in Schedule 1 to this Agreement (the Technical Assistance) on the terms and conditions hereinafter set forth;

WHEREAS (C) the Recipient has requested the Association to carry out the Technical Assistance; and

WHEREAS (D) the Association has agreed to carry out the Technical Assistance on the terms and conditions hereinafter set forth.

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions; Term of Technical Assistance

Section 1.01. The Technical Assistance shall be undertaken by consultants (the Consultants) who shall, as far as practicable, include Consultants with expertise in the following areas:

- (a) review, analysis, design and implementation of agricultural reforms;
- (b) restructuring of public administration in agriculture; and
- (c) assessment of investment opportunities in the crop and livestock sectors.

Section 1.02. As used in this Agreement, the terms "yen" and "¥" mean the currency of Japan, and the term "Consultants" includes individual consultants as well as any consulting firm that provides any of the experts referred to in Section 1.01.

Section 1.03. The Consultants are expected to commence their services on February 1, 1994 and to provide a total of 76 man-months of service between that time and July 31, 1994.

ARTICLE II

Responsibilities of the Association and the Administrator

Section 2.01. The Grant to be provided by Japan for the Technical Assistance shall be in an amount of sixty-two million seven hundred thousand yen (¥62,700,000).

Section 2.02. The Administrator shall utilize the Grant to finance the following expenditures in connection with the services of the Consultants:

- (a) remuneration, per diem and other allowances;
- (b) international and local travel expenses; and
- (c) office expenses, including communications and report translations, incurred by the Consultants in foreign and local currency in the performance of their services; and
- (d) cost of equipment and materials procured by the Consultants and required for the performance of their services.

Section 2.03. The Association shall make reasonable efforts to secure the services of the Consultants.

Section 2.04. The recruitment, engagement and supervision of the Consultants shall be the responsibility solely of the Association and shall be done according to the Association's applicable procedures.

ARTICLE III

Responsibilities of the Recipient

Section 3.01. The Recipient shall cooperate with the Administrator, the Association and the Consultants to ensure that the Technical Assistance is carried out promptly and effectively and, for this purpose, shall issue appropriate instructions to its officials, agents and representatives.

Section 3.02. The Recipient shall:

- (a) make arrangements for all personnel of the Consultants assigned to the Technical Assistance (other than nationals of the Recipient or permanent residents of the Recipient's territories) and all dependents of such personnel promptly to be provided with any necessary entry and exit visas, residence and work permits, exchange documents and travel documents required for their stay in the Recipient's territories during the duration of the Technical Assistance;
- (b) facilitate clearance through its customs of any equipment, materials and

supplies required for the Technical Assistance and any personal effects of the personnel of the Consultants assigned to the Technical Assistance (other than nationals of the Recipient or permanent residents of the Recipient's territories) and the dependents of such personnel;

(c) permit the Consultants to bring into, and withdraw from, the Recipient's territories reasonable amounts of foreign currency for purposes related to the Technical Assistance;

(d) permit the personnel of the Consultants assigned to the Technical Assistance (other than nationals of the Recipient or permanent residents of the Recipient's territories) and the dependents of such personnel to bring into, and withdraw from, the Recipient's territories reasonable amounts of foreign currency for their personal use;

(e) exempt the Consultants and the personnel of the Consultants assigned to the Technical Assistance from (or the Recipient shall pay on behalf of the Consultants and such personnel) any taxes, duties, fees, levies and other impositions imposed under the laws and regulations in effect in the Recipient's territories on the Consultants and such personnel in respect of:

(i) any payments whatsoever made to the Consultants and such personnel (other than nationals of the Recipient or permanent residents of the Recipient's territories) in connection with the carrying out of the Technical Assistance;

(ii) any equipment, materials and supplies brought into the Recipient's territories by the Consultants for the purpose of carrying out the Technical Assistance and which, after having been brought into such territories, will be subsequently withdrawn therefrom by them;

(iii) any equipment, material and supplies brought into the Recipient's territories by the Consultants for the purpose of carrying out the Technical Assistance and which will be consumed therein or become the property of the Recipient; and

(iv) any property brought into the Recipient's territories by the Consultants or such personnel (other than nationals of the Recipient or permanent residents of the Recipient's territories) or the dependents of such personnel for their personal use and which will be consumed therein or subsequently withdrawn therefrom by them upon their respective departure from the Recipient's territories, provided that the Consultants, such personnel and their dependents shall follow the usual customs procedures of the Recipient in importing property into the Recipient's territories;

and

(f) ensure that any materials or equipment procured by the Administrator for purposes of the Technical Assistance and financed out of the proceeds of the Grant shall be free of any tax, duty, fee, levy or other impositions imposed under the laws and regulations in effect in the Recipient's territories in respect of the importation, manufacturing or procurement of said equipment or materials.

Section 3.03. The Recipient shall be responsible for dealing with any claims arising out of, or resulting from, the Technical Assistance that may be brought by third parties against the Administrator or the Association. The Recipient shall indemnify the Administrator and the Association against any costs, claims, damages or liabilities arising out of, or resulting from, any acts or omissions in connection with the Technical Assistance, except those resulting from the gross negligence or willful misconduct of the Administrator or the Association, as the case may be.

Section 3.04. For purposes of carrying out the Technical Assistance, the Recipient shall make available to the Consultants, free of charge, the data, services, facilities and equipment set forth in Schedule 2 to this Agreement.

Section 3.05. The Recipient shall make available to the Consultants, free of charge, such counterpart personnel to be selected by the Recipient, with the advice of the Association and the Consultants, as are set forth in Schedule 2 to this Agreement. If any member of the counterpart personnel fails to perform adequately any work assigned to him by the Consultants that is consistent with the position occupied by such member, the Consultants may request the replacement of such member, and the

Recipient shall not unreasonably refuse to act upon such request.

ARTICLE IV

Reports and Other Matters

Section 4.01. The Recipient, the Association and the Administrator shall, from time to time, at the request of any party, exchange views on the Technical Assistance and consult on any reports prepared by the Consultants and the implementation of any recommendations made in those reports.

Section 4.02. The Association and the Administrator may use any reports prepared by the Consultants for any purpose that the Association or the Administrator, as the case may be, may consider appropriate but those reports may not be made public except by agreement between the Recipient, the Association and the Administrator.

ARTICLE V

Enforceability of Agreement; Failure to Exercise Rights; Arbitration

Section 5.01. The rights and obligations of the Association, the Administrator and the Recipient under this Agreement shall be valid and enforceable in accordance with their terms notwithstanding the law of any State or political subdivision thereof to the contrary. Neither the Association nor the Administrator nor the Recipient shall be entitled in any proceeding under this Article to assert any claim that any provision of this Agreement is invalid or unenforceable because of any provision of the Articles of Agreement of the Association.

Section 5.02. No delay in exercising, or omission to exercise, any right, power or remedy accruing to any party under this Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default. No action of such party in respect of any default, or any acquiescence by it in any default, shall affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

Section 5.03. (a) Any controversy between the parties to this Agreement, and any claim by any such party against any other such party arising under this Agreement which has not been settled by agreement of the parties shall be submitted to arbitration by an Arbitral Tribunal as hereinafter provided.

(b) The parties to such arbitration shall be the Association and the Administrator on the one side and the Recipient on the other side.

(c) The Arbitral Tribunal shall consist of three arbitrators appointed as follows: one arbitrator shall be appointed jointly by the Association and the Administrator; a second arbitrator shall be appointed by the Recipient; and the third arbitrator (hereinafter sometimes called the Umpire) shall be appointed by agreement of the parties or, if they shall not agree, by the President of the International Court of Justice or, failing appointment by said President, by the Secretary-General of the United Nations. If either side shall fail to appoint an arbitrator, such arbitrator shall be appointed by the Umpire. In case any arbitrator appointed in accordance with this Section shall resign, die or become unable to act, a successor arbitrator shall be appointed in the same manner as herein prescribed for the appointment of the original arbitrator and such successor shall have all the powers and duties of such original arbitrator.

(d) An arbitration proceeding may be instituted under this Section upon notice by the party instituting such proceeding to the other party. Such notice shall contain a statement setting forth the nature of the controversy or claim to be submitted to arbitration, the nature of the relief sought and the name of the arbitrator appointed by the party instituting such proceeding. Within thirty days after such notice, the other party shall notify to the party instituting the proceeding the name of the arbitrator appointed by such other party.

(e) If within sixty days after the notice instituting the arbitration proceeding, the parties shall not have agreed upon an Umpire, any party may request the appointment of an Umpire as provided in paragraph (c) of this Section.

(f) The Arbitral Tribunal shall convene at such time and place as shall be fixed by the Umpire. Thereafter, the Arbitral Tribunal shall determine where and when it shall sit.

(g) The Arbitral Tribunal shall decide all questions relating to its competence and shall, subject to the provisions of this Section and except as the parties shall otherwise agree, determine its procedure. All decisions of the Arbitral Tribunal shall be by majority vote.

(h) The Arbitral Tribunal shall afford to all parties a fair hearing and shall render its award in writing. Such award may be rendered by default. An award signed by a majority of the Arbitral Tribunal shall constitute the award of such Tribunal. A signed counterpart of the award shall be transmitted to each party. Any such award rendered in accordance with the provisions of this Section shall be final and binding upon the parties to this Agreement. Each party shall abide by and comply with any such award rendered by the Arbitral Tribunal in accordance with the provisions of this Section.

(i) The parties shall fix the amount of the remuneration of the arbitrators and such other persons as shall be required for the conduct of the arbitration proceedings. If the parties shall not agree on such amount before the Arbitral Tribunal shall convene, the Arbitral Tribunal shall fix such amount as shall be reasonable under the circumstances. The Association, the Administrator and the Recipient shall each defray its own expenses in the arbitration proceedings. The costs of the Arbitral Tribunal shall be divided between and borne equally by the Association and the Administrator on the one side and the Recipient on the other. Any question concerning the division of the costs of the Arbitral Tribunal or the procedure for payment of such costs shall be determined by the Arbitral Tribunal.

(j) The provisions of arbitration set forth in this Section shall be in lieu of any other procedure for the settlement of controversies between the parties to this Agreement or of any claim by any such party against any other such party arising thereunder.

(k) The Association shall not be entitled to enter judgment against the Recipient upon the award, to enforce the award against the Recipient by execution or to pursue any other remedy against the Recipient for the enforcement of the award, except as such procedure may be available against the Recipient otherwise than by reason of the provisions of this Section. If, within thirty days after counterparts of the award shall have been delivered to the parties, the award shall not be complied with by the Association, the Recipient may take any such action for the enforcement of the award against the Association.

(l) Service of any notice or process in connection with any proceeding under this Section or in connection with any proceeding to enforce any award rendered pursuant to this Section shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address specified in this Agreement or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The parties to this Agreement waive any and all other requirements for the service of any such notice or process.

ARTICLE VI

Effective Date, Suspension and Termination

Section 6.01. This Agreement shall become effective upon its execution by the parties.

Section 6.02. The Recipient may at any time request the Association and the Administrator in writing to terminate the Technical Assistance. Whether or not the Recipient has made such a request, the Administrator may at any time suspend or, after consultation with the Recipient, terminate the right of the Recipient to receive Grant funds for the Technical Assistance if any of the following circumstances shall have occurred and be continuing:

(a) The Recipient shall have failed to make payment (notwithstanding the fact that such payment may have been made by a third party) of principal, interest, service charges or any other amount due to the Association or the Bank: (i) under any development credit agreement between the Recipient and the Association, or (ii) under any loan or guarantee agreement between the Recipient and the Bank, or (iii) in consequence of any guarantee or other financial obligation of any kind extended by the Bank to any third party with the agreement of the Recipient.

(b) The Recipient shall have failed to perform any obligation under this Agreement.

(c) (i) The Association or the Bank shall have suspended in whole or in part the right of the Recipient to make withdrawals under any development credit agreement with the Association or any loan agreement with the Bank because of a failure by the Recipient to perform any of its obligations under such agreement; or (ii) the Bank shall have suspended in whole or in part the right of any borrower to make withdrawals under a loan agreement with the Bank guaranteed by the Recipient because of a failure by such borrower to perform any of its obligations under such agreement.

(d) Any event shall have arisen that, in the opinion of the Association or the Administrator, as the case may be, interferes or threatens to interfere with the successful implementation of the Technical Assistance, the accomplishment of its purposes, or the execution of the Technical Assistance in accordance with the terms and conditions of this Agreement.

(e) The Recipient: (i) shall have been suspended from membership in or ceased to be a member of the Association; or (ii) shall have ceased to be a member of the International Monetary Fund.

(f) A representation made by the Recipient, in or pursuant to this Agreement, or any statement furnished in connection therewith, and intended to be relied upon by the Administrator in making the Grant, shall have been incorrect in any material respect.

Section 6.03. If the Technical Assistance is suspended or terminated, the Recipient and the Administrator shall consult with each other concerning any further action that may be necessary or desirable.

Section 6.04. The Administrator is not an agent of or trustee for the Recipient and shall not have any fiduciary relationship with the Recipient. The Recipient shall have no right to any portion of the Grant that is not expended by the Administrator pursuant to this Agreement.

ARTICLE VII

Representation

Section 7.01. All communications with respect to this Agreement shall be addressed as follows:

For the Recipient:

Minister of Agriculture
St. Kievskaja, 96
Bishkek, 720300
Kyrgyz Republic

Telex:

251283

For the Administrator and the Association:

Director, Country Department 3
Europe and Central Asia Region
International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

Telex:

INDEVAS
Washington, D.C.

197688 (TRT),
248423 (RCA),
64145 (WUI) or
82987 (FTCC)

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized

representatives, have caused this Agreement to be signed in their respective names as of the day and year first above written.

KYRGYZ REPUBLIC

By /s/ Askar Sarygulov

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION
on its own behalf and as Administrator
of the Grant

By /s/ Russell Cheetham

Authorized Representative

SCHEDULE 1

Description of Technical Assistance

The objective of the Technical Assistance is to strengthen the institutional capabilities of the Recipient in designing and implementing agricultural reforms.

The Technical Assistance consists of the following activities, subject to such modifications thereof as the Recipient and the Administrator may agree from time to time to achieve such objective:

Part A: Agricultural Privatization Support Services

- (a) Support in Strategy Formulation and Implementation:
 - (i) Review the status of the agricultural reform program and its implementation and identify implementation constraints.
 - (ii) Formulate a framework for effective implementation of the ongoing and future reform program, including policy actions, institutional arrangements, and resource requirements.
 - (iii) Define specific processes for accelerating reforms in key areas of agriculture, including land and farm reform, pricing and marketing policy, establishment of farmers' associations, and agro-processing and indicate how these can be supported by the project.
 - (iv) Prioritize the most crucial problems and evaluate alternative approaches to their solution.
 - (v) Identify critical areas where training and technical assistance would be required for the introduction of an appropriate market information system.
 - (vi) Prepare detailed project costs, indicating investment and operating costs broken down by foreign and local components for each project year, for each of the identified sub-components.
 - (vii) Prepare a realistic implementation schedule for each sub-component.
- (b) Land Registration Services:
 - (i) Review the existing system of land registration, land information

and agricultural mapping capabilities and determine its strengths and weaknesses. This should include an assessment of institutional capability, financial and material resources.

- (ii) Recommend an appropriate system for the provision of land registration services, standardization of a land registry system. Assess the needed human, capital and material resources required for its implementation.
 - (iii) Identify critical areas where training and technical assistance would be required for the introduction of an appropriate land registration system.
 - (iv) Prepare detailed project costs, indicating investment and operating costs broken down by foreign and local components for each project year, for each of the identified sub-components.
 - (v) Prepare a realistic implementation schedule for each sub-component.
- (c) Market Information System:
- (i) Analyze the strengths and weaknesses of the current market information system, especially in standardization, packaging and product qualities, sorting and grading, spatial/locational characteristics and trading practices. This should include an assessment of existing institutional capability, financial and material resources.
 - (ii) Prepare a plan for the establishment of a market information system which addresses the most important information needs for various types of agricultural producers.
 - (iii) Identify critical areas where training and technical assistance would be required for the introduction of an appropriate market information system.
 - (iv) Prepare detailed project costs, indicating investment and operating costs broken down by foreign and local components for each project year, for each of the identified sub-components.
 - (v) Prepare a realistic implementation schedule for each sub-component.
- (d) Farmer Information System
- (i) Analyze the strengths and weaknesses of the current farmer information system, especially with respect to linkages between agricultural research and education to meet farmers' information needs, their relevancy, adoption and timeliness. This should include an assessment of existing institutional capability, financial and material resources.
 - (ii) Prepare an appropriate plan for the establishment of a farmer information system which addresses the most important information needs for various types of agricultural producers.
 - (iii) Identify critical areas where training and technical assistance would be required for the introduction of such a farmer information service which addresses the most important information needs for various types of agricultural producers.
 - (iv) Prepare detailed project costs, indicating investment and operating costs broken down by foreign and local components for each project year, for each of the identified sub-components.
 - (v) Prepare a realistic implementation schedule for each sub-component.

Part B: Restructuring the Ministry of Agriculture

- (a) Evaluate the strengths and weaknesses of the present organization,

management and operations of the Ministry of Agriculture. This should critically evaluate the various institutions involved in the agricultural sector, identify critical constraints and make recommendations to improve the agricultural sector management. This should include an assessment of institutional capability, financial and material resources at present.

(b) Prepare alternative institutional mechanisms for restructuring the Ministry of Agriculture, so that it is more responsive to the needs of the emerging farm structures. This should provide the necessary human, capital and material resource needs.

(c) Identify legal and institutional bottlenecks that need to be removed in order to implement an acceptable organization framework.

(d) Identify critical areas where training and technical assistance would be required for the introduction of modern forest resource management practices.

(e) Prepare detailed project costs, indicating investment and operating costs broken down by foreign and local components for each project year, for each of the identified sub-components.

(f) Prepare a realistic implementation schedule for each sub-component.

Part C: Pilot Private Sector Agricultural Investment Projects

1. This will involve assessment of investment opportunities in the crop and livestock sectors. In the crop sector, the following activities will be undertaken:

(a) Analysis of farming systems and cropping patterns of various agro-ecological zones in the country and the interactions between crop and livestock production.

(b) Construction of existing and potential farm and crop models and explicitly indicate the assumptions underlying such models.

(c) Preparation of specific crop programs which, if implemented, would facilitate the realization of the assumptions underlying the farm and crop models.

(d) Review of existing crop husbandry practices and technologies, with special reference to major crops (wheat, cotton, tobacco, wool, and pasture), fruits and vegetables and evaluate the potential for introduction of improved technologies to increase yields.

(e) Identify specific investment opportunities for the introduction of new technologies for farm machinery and equipment in private farms, restructured collective and state farms.

2. In the livestock sector, the following activities will be undertaken:

(a) Review existing status of livestock industry, assess its competitiveness and export potential under changing relative prices and exposure to world market competition.

(b) Identification of critical policy and institutional reforms in livestock and propose a specific action plan for implementation, focusing on sheep, cattle, poultry, and fodder management.

(c) Identification and evaluation of critical investment opportunities which would yield the maximum economic benefit in the short run and encourage the participation of the private sector.

SCHEDULE 2

Description of Services, Facilities, Equipment
and Counterpart Personnel to be Made Available
by the Recipient

The Recipient shall make available to the Consultants, inter alia:

1. Suitable office space and meeting rooms, communications facilities, including telephone, facsimile and telex equipment, and the services of a qualified and experienced multi-lingual secretary;

2. Access to policy-making officials of the Ministries of Agriculture, Finance and Trade as well as to concerned regional-level governmental officials; and

3. Assistance, including transportation, in arranging field visits for the Consultants.

